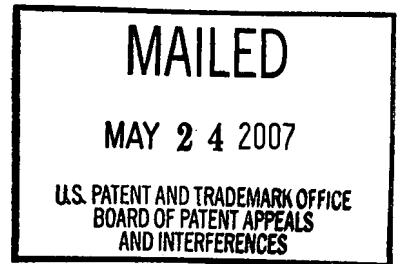


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte: JAMES KENNETH MCALPINE

Application No. 10/785,581



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on March 5, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

**EXAMINER'S ANSWER**

**Evidence of Record**

On April 5, 2006, an Examiner's Answer was mailed in response to the Appeal Brief received January 10, 2006. A review of the Examiner's Answer reveals that it is not in compliance with

the Manual of Patent Examining Procedure (MPEP). In the Evidence Relied Upon (section 8, pg. 2, ln. 19) the Examiner indicates “[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal. In accordance with MPEP 1207.02, the Evidence Relied Upon (section 8) should include:

**(8) Evidence Relied Upon**

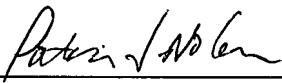
A listing of evidence relied on (e.g., patents, publications, admitted prior art), and in the case of non-patent references, the relevant page or pages.

Before further review, the examiner must mail a PTOL-90 that will include in the amended Evidence Relied Upon section, the list of references mentioned in the Grounds of Rejections. See the Manual of Patent Examining Procedure, (MPEP) § 1207.02. Appropriate correction is required.

Accordingly, it is **ORDERED** that the application is returned to the Examiner to:

- 1) issue and mail a PTOL-90 having the missing references listed under the Evidence Relied Upon section, heading (8) of the Examiner's Answer; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

  
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(703)308-9797

Application No. 10/785,581

PJN/dpv

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